

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Mail Stop: Petitions Branch**  
Andre VAN DYK : Docket No. 2004\_1031A  
Serial No. 10/500,704 : **Confirmation No. 7198**  
Filed July 2, 2004 :

ELEMENT FOR INITIATING PROPELLANT

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**RENEWED PETITION UNDER 37 CFR 1.47(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED  
TO CHARGE ANY DEFICIENCY IN THE  
FEES FOR THIS PAPER TO DEPOSIT  
ACCOUNT NO. 23-0975

Sir:

In reply to the Decision on Petition Under 37 CFR 1.47(b) mailed March 10, 2005, the period for response having been extended for one month by the attached petition, it is respectfully submitted that the attached materials satisfy the outstanding requirements for a grantable petition.

In particular, regarding item (2), attached hereto is a signed statement of facts by the person who presented the non-signing inventor with the application papers and to whom the refusal was made, wherein the statement of facts describes the specific efforts made to obtain the non-signing inventor's signature, and confirms that the inventor was provided with a copy of the complete application papers. In addition, regarding item (5), attached hereto is a Statement Under 37 CFR 3.73(b) indicating that Mr. Tota is authorized to act on behalf of NXCO International Limited.

In view of the foregoing, it is respectfully submitted that each of the necessary items for a grantable petition under 37 CFR 1.47(b) has now been satisfied. Accordingly, it is believed that the petition is now in condition to be granted, an indication of which is respectfully requested.

Respectfully submitted,

Kenneth Fields

Kenneth W. Fields  
Registration No. 52,430

KWF/abm  
Washington, D.C. 20006-1021  
Telephone (202) 721-8200  
Facsimile (202) 721-8250  
June 10, 2005

## STATEMENT

I, Roy Francis Taberer, an employee of the law firm McCallum, Rademeyer and Freimond of Johannesburg South Africa, make the following statements with regards patent application number 10/500704 entitled "Element for Initiating Propellant".

1. A declaration, attached to a full copy of the application as filed, was sent to the inventor, Mr. A. van Dyk, under cover of our explanatory letter dated 3 May 2005. A copy of the letter is attached marked "exhibit A".
2. The declaration, application and letter were sent by registered post on 6 May 2005. A copy of the registered mail envelope is attached marked "exhibit B".
3. On 23 May 2005, I made a telephone call to Mr. van Dyk. I made him aware that if he had not already received a registered postal item from ourselves, that one was on its way and that it contained the declaration, application and explanatory letter. I asked that he sign the declaration. He replied that he would not be doing so and terminated the conversation.
4. On the 26 May 2005 I went onto the South African Post Office website in order to ascertain the status of the registered mail. The search revealed that Mr. van Dyk had received the mail on the 24 May 2005 at 14:16. A copy of the receipt is attached marked "exhibit C".

5. To date Mr. Van Dyk has not contacted me nor have I received his signed declaration and it can be assumed that he continues to be uncooperative.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all the statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like may jeopardize the validity of the application or any patent issued thereon.

Date: 30 May 2005


  
\_\_\_\_\_  
Roy Francis Taberer

EXHIBIT A



**McCALLUM RADEMEYER & FREIMOND**

**Intellectual Property Law: Patents and Trade Marks**

Physical Address:

Muelyn House, 7 June Avenue,  
Randburg, Johannesburg

Telephone (011) 789-1046 Telefax (011) 787-4516 Docex 5 Randburg  
website: [www.mrf.co.za](http://www.mrf.co.za) e-mail: [monty@mrf.co.za](mailto:monty@mrf.co.za)

Postal Address:

Box 1130, Randburg,  
2125, South Africa

BY REGISTERED MAIL

3 May 2005

Mr. A. van Dyk  
223 Elands Street  
Wierda Park  
Centurion

Our Ref: P20309/MAJR

Dear Sir

**US NATIONAL PHASE PATENT APPLICATION BASED ON PCT/ZA02/00208**  
**Entitled : METHOD AND APPARATUS FOR BREAKING ROCK**  
**In the name of : NXCO INTERNATIONAL LIMITED**

We have recently been in correspondence and in contact with you regarding the outstanding declaration which is required for filing at the American patent office in connection with this patent application.

We again call upon you to sign the declaration and then to return the signed declaration to this office as soon as possible. We can arrange for collection of the signed declaration from your premises.

The declaration which is to be signed by you, is attached to a full copy of the specification, including claims, drawings and abstract as filed at the American patent office. This copy has previously been sent to you by e-mail and in substance is identical to the documents you reviewed at the time of filing the PCT application.

We ask you to cooperate to avoid our client incurring unnecessary expense. If you have any questions please contact us.

Please acknowledge receipt of this letter and the enclosures by telephone. If we do not hear from you within two weeks of the date of this letter we will have no alternative but to conclude, yet again, that you do not wish to cooperate and that you will not be signing the declaration.

Yours faithfully

McCALLUM RADEMEYER & FREIMOND

Per: M.A.J. RADEMEYER

/jes



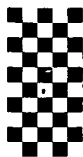


EXHIBIT C

## Current Item Status

**Postal Item:** RD626156341ZA

**Date last tracked (scanned):** 09-May-2005 12:37

**Current Status:** First notification to the client to collect the postal item

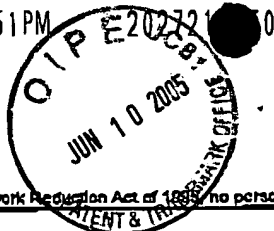
**Delivery Office:** WIERDA PARK

## Item History

Scan Description	Place Scanned	Trace Information	Item Status	Date Scanned
P-DELIVERY DOCUMENT	WIERDA PARK		First Note	09-May-2005 12:37
D-DELIVERY FROM AS	PRETORIA	WIERDAPARK		08-May-2005 11:19
D-DELIVERY FROM AS	PRETORIA	BAGOPEN I		07-May-2005 09:09
A-DESTINATION SORT	WITSPOS			07-May-2005 00:18
D-DELIVERY FROM AS	WITSPOS	RECEIVED RLS		06-May-2005 21:58

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**SAPOS Mail Tracking:** *Should you experience a problem or have a suggestion, please e-mail the webmaster.*



PTO/SB/86 (08-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Andre Van DykApplication No./Patent No.: 10/500,704 Filed/Issue Date: July 2, 2004Entitled: ELEMENT FOR INITIATING PROPELLANTNXCO International Limited, a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

A ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08)

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Edward Walenty Tota

Printed or Typed Name

General Manager of NXCO International Limited

Title

Date

30/05/05  
12 305 5237

Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.